

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TEXAS  
WACO DIVISION**

MOTION OFFENSE, LLC,

*Plaintiff*

v.

DROPBOX, INC.,

*Defendant*

Civil Action No.: 6:20-cv-00251-ADA

MOTION OFFENSE, LLC,

*Plaintiff,*

v.

DROPBOX, INC.,

*Defendant.*

Civil Action No.: 6:21-cv-758-ADA

**DROPBOX INC.'S OBJECTIONS TO  
FINAL JURY INSTRUCTIONS**

Instruction	Dropbox Objection <sup>1</sup>
7.6 Burdens of Proof and Standards of Proof	Dropbox objects to this instruction on the basis that the statement that “[c]lear and convincing evidence is evidence that produces in your mind a firm belief or conviction as to the truth of the matter sought to be established” is not an accurate statement of Federal Circuit law. <i>See</i> 35 U.S.C. § 282; <i>Microsoft Corp. v. i4i Limited Partnership</i> , 564 U.S. 91 (2011); <i>Schumer v. Lab. Computer Sys., Inc.</i> , 308 F.3d 1304, 1315 (Fed. Cir. 2002).
10.1 Direct Infringement - Generally	Dropbox objects to this instruction on the basis that the statement “Direct patent infringement does not require proof that the infringing party intended to infringe the patent. A party such as Dropbox can directly infringe a patent without knowing of the patent at all, or without knowing that what the party was doing or selling infringed the patent” is prejudicial and confusing to the extent it imposes a negative requirement of what is not required to prove infringement.
11.1 Presumption of Validity	Dropbox objects to this proposed instruction regarding the “presumption of validity” as prejudicial and unnecessary in view of the Court’s instruction regarding the clear-and-convincing-standard for invalidity. <i>Chiron Corp. v. Genentech, Inc.</i> , 363 F.3d 1247, 1258 (Fed. Cir. 2004) (“[T]he presumption of validity and heightened burden of proving invalidity are static and in reality different expressions of the same thing—a single hurdle to be cleared.” (citation and punctuation omitted)).
11.2.3 Prior Art – Corroboration of Oral Testimony	Dropbox objects to the inclusion of an instruction on corroboration. Dropbox has offered documentary and physical evidence in support of the prior art on which it relies. Accordingly, this instruction is unnecessary and likely to confuse the jury. Dropbox further objects to the extent this instruction fails to reference the rule of reason and includes incorrect propositions of law. <i>See, e.g., Adenta GmbH v. OrthoArm, Inc.</i> , 501 F.3d 1364, 1372 (Fed. Cir. 2007) (“Assessing the sufficiency of evidence which corroborates a witness’s testimony concerning invalidating activities has been analyzed under the ‘rule of reason’ test”). Dropbox also specifically objects to the inclusion of “If you find that Dropbox has not corroborated oral testimony regarding prior art with other evidence, you are not permitted to find that the uncorroborated oral testimony alone establishes that a reference qualifies as prior art,” on the basis that it is an issue of law rather than a question for the jury and because Dropbox has submitted ample corroborating evidence.

<sup>1</sup> Dropbox also reserves the right to orally object to the Court’s instructions before the jury charge.

Instruction	Dropbox Objection <sup>1</sup>
11.4 Obviousness	Dropbox objects to the exclusion of the nexus requirement for secondary considerations. <i>See, e.g., Apple Inc. v. Samsung Elecs. Co., Ltd.</i> , 839 F.3d 1034, 1048, 1052–53 (Fed. Cir. 2016); <i>WBIP, LLC v. Kohler Co.</i> , 829 F.3d 1317, 1329–37 (Fed. Cir. 2016).

May 18, 2023

Respectfully submitted,

/s/ Gregory H. Lantier

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**CERTIFICATE OF SERVICE**

I hereby certify that all counsel of record are being served with a copy of the foregoing document via the Court's CM/ECF system on May 18, 2023.

/s/ Kelly Ransom